

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MUHAMMAD E. MILHOUSE,

Plaintiff,

-v-

CITY OF NEW YORK *et al.*,

Defendants.  
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22 Civ. 2934 (JPC) (BCM)

ORDER ADOPTING  
REPORT AND  
RECOMMENDATION

JOHN P. CRONAN, United States District Judge:

Plaintiff Muhammad E. Milhouse brings this action, as well as another action under a separate docket number which has been marked as related, alleging assault by employees of the New York City Department of Homeless Services while staying at a Hilton Garden Inn in Manhattan. Dkt. 2; *see also Milhouse v. New York City (DHS) Homeless Program Project et al.*, No. 22 Civ. 2940 (JPC) (BCM) (S.D.N.Y.). By Order dated August 1, 2023, the Honorable Barbara C. Moses, to whom this case has been referred for general supervision of pretrial proceedings and dispositive motions, issued a Report and Recommendation, recommending that the Court dismiss this case without prejudice for failure to prosecute. Dkt. 45. Judge Moses further recommended that Plaintiff's related action, *Milhouse v. New York City (DHS) Homeless Program Project et al.*, No. 22 Civ. 2940 (JPC) (BCM) (S.D.N.Y.), also be closed. *Id.* at 8 (noting that the related action "was previously kept open for administrative purposes").

A district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge" in a Report and Recommendation. 28 U.S.C. § 636(b)(1)(C). If a party submits a timely objection to any part of the magistrate judge's disposition, the district court will conduct a *de novo* review of the contested section. Fed. R. Civ.

P. 72(b)(3); *see also United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). If no objections are made, the Court reviews the Report and Recommendation for clear error. *See, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

The Report and Recommendation, citing both Rule 72 of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1), advised the parties that they had fourteen days from service of the Report and Recommendation to file any objections, and warned that failure to timely file such objections would result in waiver of any right to object. Dkt. 9. No objections have been filed and the time for making any objections has passed. The parties have therefore waived the right to object to the Report and Recommendation or to obtain appellate review. *See Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992); *see also Caidor v. Onondaga Cnty.*, 517 F.3d 601 (2d Cir. 2008).

Notwithstanding this waiver, the Court has conducted a *de novo* review of the Report and Recommendation, and finds it to be well reasoned and its conclusions well founded. Accordingly, the Court adopts the Report and Recommendation in its entirety and dismisses this case without prejudice for failure to prosecute. The Clerk of Court is respectfully directed to enter judgment in this case and in Plaintiff's related case, *Milhouse v. New York City (DHS) Homeless Program Project et al.*, No. 22 Civ. 2940 (JPC) (BCM) (S.D.N.Y.), and to close both cases. The Clerk of the Court is further respectfully directed to also enter this Order in *Milhouse v. New York City (DHS) Homeless Program Project et al.*, No. 22 Civ. 2940 (JPC) (BCM) (S.D.N.Y.).

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: August 24, 2023  
New York, New York

  
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JOHN P. CRONAN  
United States District Judge